

ESTTA Tracking number: **ESTTA26916**

Filing date: **02/25/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Callaway Golf Company
Granted to Date of previous extension	02/27/2005
Address	2180 Rutherford Road Carlsbad, CA 92008 UNITED STATES

Attorney information	Michael A. Catania Callaway Golf Company 2180 Rutherford Road Carlsbad, CA 92008-7328 UNITED STATES MikeCa@callawaygolf.com Phone:760-930-8493
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Applicant Information

Application No	78333250	Publication date	08/31/2004
Opposition Filing Date	02/25/2005	Opposition Period Ends	02/27/2005
Applicant	Oldenburg, Richard J. P. O. Box 63 Diablo, CA 94528		

	UNITED STATES
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Goods/Services Affected by Opposition

Class 028. Opposed goods and services in the class: Golf clubs

Attachments	78333250 notice of opposition IMAGE (4).PDF (4 pages)
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Signature	/Michael A. Catania/
Name	Michael A. Catania
Date	02/25/2005

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CALLAWAY GOLF COMPANY
(a Delaware Corporation)

Opposer,

v.

RICHARD J. OLDENBURG,
(an individual)

Applicant.

Opposition No.:

Serial No.: 78/333,250

Filing Date: November 25, 2003

Publication Date: August 31,

2004

NOTICE OF OPPOSITION

NOW COMES CALLAWAY GOLF COMPANY ("Callaway Golf"), before this honorable board and hereby opposes the registration of Richard J. Oldenburg's ("Applicant") United States Trademark Application for CANNON in International Class 28 for golf clubs, as follows:

1. Callaway Golf is a Delaware corporation that manufactures, markets and sells golf equipment. In October of 2003, Callaway Golf purchased the golf related assets, including trademarks and goodwill associated therewith, of the former Spalding Sports Company (includes Lisco, Inc and Spalding & Evenflo Co.). These purchased assets included the common-law trademark rights to CANNON for golf clubs.

2. U.S. Trademark Registration Number 1963308 for CANNON for golf clubs in International Class 28, owned by Spalding & Evenflo Co., was canceled on December 21, 2002 for failure to file a Section 8 Statement.

3. The mark CANNON has been used on golf clubs by Spalding and Callaway Golf since at least 1984, without abandonment of the mark.

4. Callaway Golf has developed exceedingly valuable goodwill in its CANNON trademark, and enjoys a high degree of consumer recognition among consumers of golfing products.

5. Callaway Golf is currently selling and marketing a golf club bearing the CANNON mark through its subsidiary Top Flite Golf Company.

6. Callaway Golf's use of CANNON on golf clubs is prior to the November 25, 2003 date on which Applicant filed its trademark application.

7. As a result of the confusing similarity between Callaway Golf's use of CANNON and Applicant's trademark application for CANNON, and because the goods of Applicant and Callaway Golf are identical, likely to be sold in similar channels of commerce, and are directed to the same customers (golfers), registration of the mark CANNON in connection with Applicant's goods is likely to cause confusion with Callaway Golf's use of CANNON on golf clubs, or is likely to deceive purchasers as to the source or sponsorship of Applicant's goods.

8. If Applicant is permitted to register its mark for golf clubs, confusion in trade of Callaway Golf's use of CANNON will result in damages and injury to Callaway Golf.

Wherefore, Callaway Golf respectfully requests that this Opposition be sustained, that Application Serial No. 78/333,250 be rejected, and that registration of the mark therein sought for golf clubs be denied and refused.

CALLAWAY GOLF COMPANY

Date: February 25, 2005

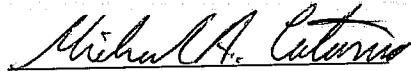
By: Michael A. Catania
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Opposition is being deposited with the United States Postal Service as first class mail in an envelope addressed to the following:

Michael J. Hughes
Attorney for Applicant,
IPLO Intellectual Property Law Offices
1901 South Bascom Avenue
Suite 660
Campbell, California 95008-2209
Telephone: (408) 558-9950

On this 25 day of February, 2005



Michael A. Catania
Attorney for Callaway Golf Company